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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,549	01/07/2000	E. MICHAEL ACKLEY, JR.	2280.2470	3198

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NEW YORK, NY 10112

EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/479,549

Applicant(s)

ACKLEY, JR. ET AL.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,9,10,12 and 59-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,9,10,12 and 59-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 9, 10, 12 and 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (WO' 075) in view of Redford et al (WO'884), further in view of Yamamoto et al ('252), Krubert ('273), Van Os ('536), Karlyn et al ('340), Karlyn et al ('045) and Averill et al ('048), for the reasons fully and clearly detailed in the Office action mailed 1/20/04.

All of applicant's remarks filed 7/26/04 have been fully carefully considered but are not found to be convincing. The remarks made by the examiner in the last Office action mailed 1/20/04 are still relevant. As summarized in the last Office action, since it was conventional to employ vacuum wells with articles undergoing two printing steps to fix the articles to obtain registration for the two printing steps and since it was conventional to employ vacuum pockets or wells with curved surface articles requiring registration between two steps, one of which is a printing step and one of which is a printing modification step, one would fully expect, and be fairly led, to employ vacuum wells or pockets when printing curved surfaced articles employing two printing steps. The problem is not specific to printing but rather the problem is maintaining the articles to be printed, and/or to have the printed modified, in a fixed position for the operations that are intended to be performed on the work pieces. It is unequivocally taught by the art to employ vacuum to fix the position of articles that are to be printed or treated in a way

that the image on the articles are required to be fixed for an acceptable result. All of the references are analogous since they deal with printing and maintaining the articles.

It is urged on page 2 that Ream is the only reference that prints on an edible. The rejection would only require one reference that prints on an edible to be a proper rejection. All the other references are directed to printing so that they are all analogous art. In fact, Redford even prints on tablets, which, are of course, also consumed. As noted previously, Ream does not have to teach a non-planer article surface for the rejection to be proper. If it did, the rejection would border on anticipation (35 USC 102), instead of obviousness (35 USC 103), Redford clearly teaches performing operations including printing and modification of printing on a non-planer surface wherein Redford employs vacuum wells/pockets to keep the non-planer surfaced articles fixed for registration. It is urged on page 3 that the second operation in Redford is a non-contact step. However, whether the second operation is a contact step or not, Redford teaches the article must be vacuum fixed for registration for the second operation, and Ream et al already teaches two contact printing steps. It is also urged on page 3 of the response that Redford does not teach non-planer surfaces protruding above individual cavities. This is also not convincing. See figure 2 in this regard, wherein the articles to be printed clearly protrude above the cavities. In regard to Yamamoto et al, Yamamoto et al has not been relied on to teach multiple printing of an image. See the rejection in the last Office action. Yamamoto et al does teach employing vacuum to maintain the position of a non planer article during printing. In regard to Krubert, contrary to what is urged, Krubert does fix the article for registration by placing each of the products individually in moving mandrels. On page 4 of the amendment, it is urged that Van Os, the Carlyn references and Averill do not employ a conveyor system or

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method relevant to the claims. Contrary to what is urged, they all employ conveyor systems and all employ wells/pockets. Note, however, that the latter would not be required for the rejection to be proper since wells/pockets are already taught by other prior art applied. These references clearly and unequivocally teach the conventionality of employing pressure differentials to register articles undergoing multiple printings. On page 5 of the remarks, it is urged that Ream et al do not teach recesses. This urging is not convincing. See e.g. fig 12-14 in this regard. Also, Redford also discloses recesses as do other prior art references as discussed previously and above. On page 6, it is urged that none of the references teach articles raised above the transport surface, but, as discussed above, this urging is not accurate. In regard to claim 63, the urgings that the size of the articles are significant are significant is mere opinion not supported by any probative evidence. Note, too, the art taken as a whole teach tablets maintaining fixed in registry in vacuum pockets and the difference, if any, between applicants dimensions and those of the tablets of Redford appear inconsequential. In fact many tablets are smaller than applicants disclosed "M & M'S ". Finally, in regard to the issue of drying, once it is taught to provide drying between printing steps, the type of drying employed and its time is seen to have been an obvious results effective variable and an obvious function of the size and type of article to be printed as well as the nature of the ink.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L Weinstein whose telephone number is (571) 272-1410. The examiner can normally be reached on Monday-Friday 7:00am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

S. Weinstein/af
November 8, 2004

Steven Weinstein
STEVE WEINSTEIN
1761